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| APPLICATION NO.                                                                                             | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|-------------------------------------------------------------------------------------------------------------|-------------|----------------------|----------------------------|------------------------|
| 10/685,806                                                                                                  | 10/15/2003  | Jana H. Jenkins      | RSW920030214US1            | 5137                   |
| 45541 7590 01/29/2008<br>HOFFMAN WARNICK & DALESSANDRO LLC<br>75 STATE ST<br>14TH FLOOR<br>ALBANY, NY 12207 |             |                      | EXAMINER<br>DAO, THUY CHAN |                        |
|                                                                                                             |             |                      | ART UNIT<br>2192           | PAPER NUMBER           |
|                                                                                                             |             |                      | MAIL DATE<br>01/29/2008    | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/685,806

Applicant(s)

JENKINS, JANA H.

Examiner

Thuy Dao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/15/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is responsive to the amendment filed on November 15, 2007.
2. Claims 1-8 and 10-21 have been examined.

### Response to Amendments

3. Per Applicant's request, claims 1, 8, and 15 have been amended.

### Response to Arguments

4. Applicant's arguments have been fully considered. However, they are not persuasive.

a) The limitation "analyzing messages for an end user of a computer program" (Remarks, page 8, lines 7-11):

The examiner respectfully disagrees with Applicant's assertions. PEX-Feb02 explicitly discloses:

*"providing message analysis criteria"* (e.g., page 41: 24-26, page 44: 11-13, page 44: 25-29: providing message analysis criteria as identifying at least one computer program component; page 41: 24-26, page 42: 3-5: providing message analysis criteria as identifying at least one properties file; page 42: 1-9, pp. 47-48: designating said analysis criteria through a criteria interface),

*"for analyzing messages for an end user of a computer program"* (e.g., page 42: 18-24, gathering/analyzing performance data for application developers who are interested in understanding or improving the performance of their programs).

b) The new limitations "wherein the message analysis criteria determines lingual metrics corresponding to the messages for translations estimates" (Remarks, pp. 8-9):

After further consideration, the examiner notes that Yami, a secondary reference (art of record), also teaches these new limitations.

Yami discloses:

*the desired information includes a message quantity and an estimated line count* (e.g., [0030], [0045], [0055]);

*the message analysis criteria determines lingual metrics corresponding to the messages for translations estimates* (e.g., FIG. 5, [0055], [0030]; the number of log files allowed to translate an original log file to said determined number of secure log files).

c) “[G]athering/analyzing performance data in PEX-Feb02 is not equivalent to analyzing messages” (Remarks, page 9, lines 5-11):

The examiner notes that the plain language of the claims merely calls for “A method for analyzing messages associated with computer program code ...” (claim 1, lines 1-2, emphasis added), which does not exclude analyzing performance data associated with computer program code, wherein said performance data include different types of message such as \*STATS, \*TRACE, and \*PROFILE (e.g., pp. 46-48 and Figure 3-27 on page 47, emphasis added).

d) “PEX-Feb02 does not teach, a ‘message [constructed on the basis of] lingual metrics ... for translation estimates” (Remarks, page 9, lines 11-16):

The limitation which Applicant argued about “wherein the message analysis criteria determines lingual metrics corresponding to the messages for translations estimates” are newly added in the instant amendments and as set forth above in (b), Yami also teaches said new limitations.

e) The limitation “providing a message analysis criteria” (Remarks, page 10):

The examiner notes that the limitation at issue as a whole would be “providing message analysis criteria for analyzing messages for an end user of a computer program” (claim 1, lines 2-4, emphasis added). As set forth in (c) above, analyzing messages associated with a computer program do not exclude analyzing performance data associated with said computer program.

PEX-Feb02 explicitly discloses:

“providing message analysis criteria” (e.g., page 41: 24-26, page 44: 11-13, page 44: 25-29: providing message analysis criteria as identifying at least one

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computer program component; page 41: 24-26, page 42: 3-5: providing message analysis criteria as identifying at least one properties file; page 42: 1-9, pp. 47-48: designating said analysis criteria through a criteria interface),

*"for analyzing messages for an end user of a computer program"* (e.g., page 42: 18-24, gathering/analyzing performance data for application developers who are interested in understanding or improving the performance of their programs).

Accordingly, the examiner respectfully maintains the 35 USC §103(a) rejection over claims 1-8 and 10-21.

### **Claim Objections**

5. Claim 8 is objected to because of minor informalities. In Remarks, page 7, last paragraph, the Applicant agreed to amend claim 8 to satisfy the 35 USC 101 section as being statutory subject matter.

However, to completely direct to statutory subject matter, claim 8 is considered to read as - -A computer implemented system, embodied in a computer readable, recordable, and executable medium ...- - as similarly recited in independent claim 15.

Appropriate correction is required.

### **Claim Rejections – 35 USC § 103**

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-8 and 10-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over PEX-Feb02 (art of record, "Java and WebSphere Performance", section

Performance Explorer PEX) in view of PEX-Sep02 (art of record, "Collecting and Analyzing PEX Trace Profile Data"), and further in view of Yami (art of record, US Patent Publication No. 2003/0236992 A1).

**Claim 1:**

PEX-Feb02 discloses a method, system, and program product (e.g., page 1, FIG. 1, page 1: 1 – page 2: 27; pp.3-5, sections 1.1-1.3) *for analyzing messages associated with computer program code* (e.g., page 41: 7-23), *the method comprising:*

*providing message analysis criteria for analyzing messages for an end user of a computer program* (e.g., page 39, section 3.7 Java application-level tools; page 41: 24-26; page 42: 1-9; page 42: 18-24),

*wherein the message analysis criteria identifies at least one computer program component* (page 41: 24-26, member QAPEXDFN in library; page 44: 11-13, run one or more application transactions; page 44: 25-29, OrderEntryBeans.jar),

*at least one properties file* (e.g., page 41: 24-26, library QUSRSYS; page 42: 3-5, files QAYPExxx in QPEXDATA)

*to identify specific messages for analysis* (e.g., page 41: 7-23: identify either Statistical, Profile, or Trace; pp. 46-48, PEX definition to identify specific messages with specific definition name, job name, associated user name, ...),

*wherein the message analysis criteria is designated through a criteria interface* (e.g., a criteria interface as a command window to enter PEX CL commands; page 42:1-9, starting and using PEX);

*designating desired information for at least one type of message* (e.g., page 46, Creating PEX definition from Java performance collection; pp. 47-48, designating desired information in PEX definition),

*wherein the desired information is designated through an information request interface* (e.g., page 47, FIG. 3-77, interface for Adding a PEX Definition);  
*and*

*identifying instances of the at least one type of message based on the analysis criteria* (e.g., page 42: 12-17, identifying report/result/log files as instances of

Statistical, Profile, or Trace message; page 47, subsection 3, DFN (<Your Instance Name>); JOB (Jobname: <Your Instance>, User: QEJB, Number: \*All) ); *and analyzing the instances to determine the desired information* (e.g., pp.42-44, Performance Trace Data Visualizer; pp.48-51, Collecting performance data for analysis).

PEX-Feb02 does not explicitly disclose *[providing message analysis criteria which identifies] a predetermined time period*.

However, in an analogous art, PEX-Sep02 further discloses *[providing message analysis criteria which identifies] a predetermined time period* (e.g., page 2: 14-26, parameter INTERVAL(5) as a predetermined time period).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of PEX-Sep02 into that of PEX-Feb02. One would have been motivated to do so to adjust between PEX's overhead and collection time in large or small systems as suggested by PEX-Sep02 (e.g., page 2: 20-26).

Neither PEX-Feb02 nor PEX-Sep02 explicitly discloses *[the desired information includes] a message quantity and an estimated line count*.

However, in an analogous art, Yami further discloses:

*the desired information includes a message quantity and an estimated line count* (e.g., [0030], [0045], [0055]);

*the message analysis criteria determines lingual metrics corresponding to the messages for translations estimates* (e.g., FIG. 5, [0055], [0030], the number of log files allowed to translate an original log file to said determined number of secure log files).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Yami into that of PEX-Feb02 and PEX-Sep02. One would have been motivated to do so to provide secure log files as suggested by Yami (e.g., [0002] and [0006-0010]).

**Claim 2:**

The rejection of claim 1 is incorporated. PEX-Feb02 also discloses *outputting the desired information* (e.g., page 48-51, Visualizer performance data with PTDV).

**Claim 3:**

The rejection of claim 1 is incorporated. Yami further discloses *computing an estimated translation cost based on the estimated line count* (e.g., [0045], [0055]).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Yami into that of PEX-Feb02 and PEX-Sep02. One would have been motivated to do so as set forth above.

**Claim 4:**

The rejection of claim 1 is incorporated. Yami further discloses *the estimated line count is computed by determining a total of words added, changed or deleted within the instances, and dividing the total of words by a predetermined value* (e.g., [0023], [0029]). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Yami into that of PEX-Feb02 and PEX-Sep02. One would have been motivated to do so as set forth above.

**Claim 5:**

The rejection of claim 4 is incorporated. Yami further discloses *the predetermined value is ten* (e.g., [0053-0055]). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Yami into that of PEX-Feb02 and PEX-Sep02. One would have been motivated to do so as set forth above.

**Claim 6:**



The rejection of claim 1 is incorporated. Yami further discloses *at least one type of messages is selected from the group consisting of newly created messages, edited messages, and deleted messages, and wherein the instances of the at least one type of message are those that correspond to the at least one computer program component and that exist within the at least one properties file during the predetermined time period (i.e., [0023], [0045], [0053])*. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Yami into that of PEX-Feb02 and PEX-Sep02. One would have been motivated to do so as set forth above.

**Claim 7:**

The rejection of claim 6 is incorporated. Yami further discloses *the estimated line count represents a translation estimate for the newly created messages and the edited messages (e.g., [0029], [0053-0055])*. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to combine the teaching of Yami into that of PEX-Feb02 and PEX-Sep02. One would have been motivated to do so as set forth above.

**Claims 8 and 10-14:**

Claims 8 and 10-14 are computer implemented system versions, which recite the same limitations as those of claims 1-7, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claims 8 and 10-14.

**Claims 15-21:**

Claims 15-21 are program product versions, which recite the same limitations as those of claims 1-7, wherein all claimed limitations have been addressed and/or set forth above. Therefore, as the references teach all of the limitations of the above claims, they also teach all of the limitations of claims 15-21.

### Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication should be directed to examiner Thuy Dao (Twee), whose telephone/fax numbers are (571) 272 8570 and (571) 273 8570, respectively. The examiner can normally be reached on Tuesday, Thursday, and Friday from 6:00AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam, can be reached at (571) 272 3695.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

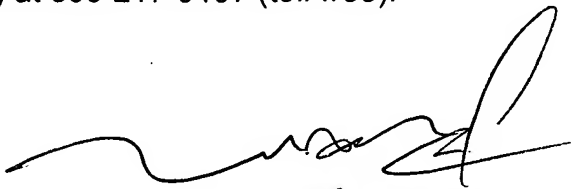
Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR

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T. Dao



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**